

Conservation Commission, August 27, 2012

Town of Scituate

Conservation Commission

Town Hall Selectmen's Hearing Room

Meeting Minutes

August 27, 2012

Meeting was called to order at 6:00 p.m.

Motion to go into Executive Session Ms. Scott-Pipes. Second Mr. Jones. Roll call vote: Scott-Pipes, yes; Harding, yes; Breitenstein, yes; Parys, yes; Jones, yes; Tufts, yes.

Open Session was called to order at 6:30 at p.m.

Members Present: Mr. Breitenstein, Acting Chairman, Mr. Harding, Mr. Jones, Mr. Parys, Ms. Scott-Pipes, and Mr. Tufts.

Also Present: Jim O'Connell, Agent and Carol Logue, Secretary

Agenda: Motion to accept the agenda Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Agent's Report: 140 River Street. Applicant's attorney contacted Town Council. Applicant didn't comply with the Condition to obtain a Chapter 91 License. File has been handed over to Town Council. The final Enforcement Order states to take wall out, Order says to obtain a Chapter 91 license and remove the two eye beams; removal would be more detrimental. Mr. Parys: the way it ended up being written was not the intension of the Commission. Ms. Scott-Pipes agrees.

147 Hollett Street: Enforcement Order was sent because of mowing into the buffer zone. Order of Conditions called for a post and rail fence at the 50' buffer. Past 3 months the neighbor has been in with photos, been to the house 3 times. Mr. McNerney spoke to John Zimmer about flagging the wetlands. Recommend waiving the fines. Give them 2 weeks. Homeowner flagged himself, followed up with him that he needed to hire a wetland specialist. If he not doing what he says will

recommend fines. Ms. Scott-Pipes: no more than 2 weeks.

Request for Determination: Farren, 68 Oceanside Drive (resurfaced driveway)*

Applicants were not present. Driveway was existing asphalt, but didn't run it by the Commission. Generally require permeable surface, but this was just a resurface. Drainage trenches along the sides were suggested. Came in with an after-the-fact RDA, work is already done. They did a good job. Unless Mr. O'Connell finds something legal that a hearing shouldn't be opened unless the applicant is in attendance, we will close and issue a determination. Motion for negative 3 determination - 3. "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any). Correction – Motion for a negative 2 and 3 determination – 2. "The work described in the Request is within an area subject to protection under the Act, but will not remove, fill, dredge, or alter that area. Therefore, said work does not require the filing of a Notice of Intent." Ms. Scott-Pipes. Second Mr. Parys. Motion passed by unanimous vote.

Request for Determination: Scituate Etrusco Association/Beveridge, One Common Street (14'x36' ext. of driveway)*

Carolyn Sones, President, 103 River St. and Nelson Beveridge, completed the paperwork, 85 Indian Trail were present at the hearing. Etrusco is a nonprofit organization. Driveway is 35' wide, but catering to elderly people and when they drive in, it is very difficult to turn around. If there was a rounded out area it would be easier to turn around. Because of no turn around, they are driving on the grass. When the snow comes it causes more problems. Suggested a 14' x 36' extension. Ms. Scott-Pipes: would prefer gravel rather than asphalt. Pavers are fine as long as they are not set in concrete. Snowplow might push gravel into the wetlands; very close. Mr. O'Connell: turn-around is right where the wetland vegetation starts. As long as the material is highly permeable it should be acceptable. Belgian blocks are good or cobblestones; any kind of block. Condition: when product is selected, let the Commission know. Motion for negative 3

determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any). The driveway expansion needs to be of a permeable material. The product should be approved by the Conservation Commission before installation. Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: Stocks, 365 Chief Justice Cushing (conduct soil tests)*

No one was present at the hearing. John Keefe from Keefe Associates called earlier and said he couldn't make the meeting, but would call the real estate broker. Flags from B1 to B14 are not there. Wetland plants adjacent to the sheds; full of wetland plants. Mr. O'Connell: on a single-family lot don't believe a consultant is required. Suggest they put the flags back in either now or when the septic is installed. They have a failed system. Motion to continue the hearing to September 17, 2012 Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Request for Determination: DPW/Cafferty, 68 Captain Peirce Road (self storage shed)

Kevin Cafferty, DPW was present at the hearing. Plans show salt shed at the highway barn. Surface is all asphalt. There is a little corner over the edge of the asphalt. Where is this in relation to the gas tank? The gas tank is at the backside. Keeping the existing salt shed, but too small. New salt shed is almost like a giant tent. Salt is now stored on the ground. Planning high concrete walls about 8' tall, except at the front. Getting a little close to the water line and already have to move the sewer line. Paving the inside, might remove some pavement. Any kind metal or copper frame, like flashing, so it can't seep between cement wall and cement surface. Probably put a sealer over the concrete. They have a standard design. Concerned about the salt attacking the rebar. It is according to final design, sometimes they use wood, then definitely would seal. Mr. O'Connell: between BVW line and back side of storage shed, impervious material? Looking for permeable surface, No plans to asphalt. 20' to BVW. Could put gravel or grass for

a buffer between the yard and the wetland and to allow percolation. Just don't pave it again; could put as a condition. Motion for a negative 3 determination - "The work described in the Request is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. Therefore, said work does not require the filing of a Notice of Intent, subject to the following conditions (if any). Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: McSharry Brothers, Lot 1 218 First Parish Road (new build) (cont.)

Wetlands Hearing: McSharry Brothers, Lot 2 218 First Parish Road (new build) (cont.)

Mr. O'Connell met with Steve Ivas, but it was thundering and lightening so they didn't go on site. There is an issue with flags in the field.

Miscommunication, applicant's consultant thought flags were all there.

Steve Ivas says they're not. Steve didn't find the plan initially, but the plan was there. Resolve tomorrow or Wednesday. Motion to continue the hearing for Lot 1 and 2 to September 17, 2012 at 6:30 p.m. Ms.

Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Wetlands Hearing: Digregorio, 100 Greenfield Lane (in-ground pool)*

Al Loomis from McKenzie Engineering and Jennifer & Edward

Digregorio were present at the hearing. Last meeting asked if the pool

could be turned and removed from the 50' no disturb zone. Rotated

the pool, tucked it up against the garage. Eliminated a great deal from

the 50' zone. Reduced by 67 sq. ft. Mitigation alone would cover the 2

to 1. Jim suggested to maintain mitigation in the other area also. Row

of shrubs delineated on the plan. 360 square ft. in the BVW and 125

sq. ft grass clippings removed. Ms. Scott-Pipes: please don't put

clipping in the wetlands. Mr. Harding, Mr. Parys, Mr. Jones and Mr.

Tufts: looks good, appreciate the effort. Motion to close the hearing

Ms. Scott-Pipes. Second Mr. Jones. Motion passed by unanimous vote.

Show Cause Hearing: Pilgrim Paving, 68 & 81 Oceanside Drive (paving)

Mr. O'Connell did not have the opportunity to call Pilgrim Paving today.

Ms. Scott-Pipes: Pilgrim Paving does a lot of business in Scituate, but they don't show the Commission any respect. Should have to file with us. They should receive a good solid fine; been waiting since the end of June. They don't even bother to pick up the certified mail Mr. Jones: it seems like the only way they will listen is to fine them or come in and ask the fine to be waived. No building permit is required. Upsetting they are still doing business in town. Follow the \$50 a day to get their attention and deal with how we will collect the money. Start with the date work was done and end when it is resolved. Mr. Harding: Copy to homeowner they need to know what is going on. Will send Pilgrim a letter, refer to the date of violation, lack of response, and lack of attending the hearings and until they meet with the Commission to attempt to resolve they will be fined \$50.00 a day. Send to homeowner as well. Tell the homeowners there is an outstanding issue that needs to be addressed. Ms. Scott-Pipes: Not willing to fine the homeowner. Ask them both to come to the hearing.

Agents Report: Appleton Field – several members made a site visit, there is an invasive - garlic mustard. Vinegar was brought up as an organic treatment and in the meantime Vin Bucca tried it on a small section. It seemed to work very well. He would like to treat the entire one section of the field before the crops are planted. It is a very fast growing, vivacious plant. Wanted to know if it was OK. Mr. Breitenstein: Does not persist in the environmental if only vinegar is used. He does have a farm management plan from the USDA, maybe he should ask them. The simplest question is would you drink vinegar or roundup? Ms. Scott-Pipes: can't hurt. Won't kill the dandelion root all the way. Find out from USDA; get an opinion from them.

90 Stockbridge Road: Mr. Snow suggested to put it on the agenda, but he is not here tonight. Ms. Scott-Pipes: DEP was out there last week, applicants wanted a Partial Certificate of Compliance for the two wetland crossings they put in. DEP was going to give them the partial. They are aware they have to redo all the haybales. DEP said they would be sending a letter.

88 Country Way – Mr. Harrington: received several complaints from abutters. Been being fined for several months. Got wetland delineation

done several months ago. Paul Shea thinks the wetland is larger than what is delineated. Haven't heard back about the request for monies. Correspondence is vague, must cease and desist, nothing in the record what he was doing, except from abutters. Trees either fell and then cut or cut and then fell. If his wetland delineation is correct he is not working in the wetlands. Mr. Breitenstein: there was evidence of a burned area. The whole area looked wet; all jewel weed and a couple of ferns. Still question the delineation. Ms. Scott-Pipes: there has been a history down there. There have been junk cars and other junk; we need to know where the wetlands are. Mr. O'Connell: His position will be he has paid for a wetland scientist, but we have had enough discrepancies with the lines from that wetlands person that we need them verified. Mr. Jones: who is going to pay for it? We received a proposal from John Zimmer and asked the Mr. Harrington for \$700, but haven't heard a word. We will ask him to come to the next hearing. Mr. Breitenstein: if he pays for our consultant, drop the fines. If he is not working in the wetland he shouldn't be fined. If he is working in the wetland, document the violations. Need to document everything that is seen at the site. If not done before the next hearing, attend the next hearing and explain.

8 Border – Restoration plan showed slope planted. Commission approved the restoration plan.

274 Gannett Road: substantial fill. Came in for authorization for the deck. Enforcement Order called for removal of fill and revegetation of the area. Move firewood out of the salt marsh, relocate as far from resource area as possible. Not a lot of room on the site. Ms. Scott-Pipes: Time limit on removal? 30 days Need to see a restoration plan first. 30 days to do restoration plan and 30 days to remove fill. Don't want to see fill remain there over the winter. Claimed it was 30 yards of fill, looks more like 60 yards. Fill should come out and restoration plan submitted by September 17. There is Marsh Elder along the tidal creek that he mentioned digging out and using. If that happens there will need to be further enforcement action. Put a condition in the orders if restoration plan is not to the satisfaction of the Commission the Orders are null and void.

Conway School/Mr. Jones: Met on Tuesday with the chief administrating officer and Jim O'Connell, Kevin Tufts, Frank Snow, Laura Harbottle, and Howard Matthews. TA came in later and said we had it under control. In essence went over what kind of work they do and what we were interested in. At the end we said we would come up with a statement of what we were looking for and they would come back with a proposal. I think they can do a nice project. He brought in a few more of their projects. There have done projects all over, including Chile. Won't be able to do anything until the winter. Three phases: 1. discovery phase, including 2 general population meetings that will be advertised; 2. Two or three plans that they that would be looked at and 3. they decide the best plan for the property, then we have the option of choosing. Going to be incumbent on us getting the right input so we get the right output. Work is done by 2 or 3 students from the graduate program. It would be their semester project. It is a small school and they let the students do it themselves. Their proposals will be here in a couple of weeks. Mr. Tufts: we give them direction for a starting point of what we want to see. Ms. Scott-Pipes: is this the Bates Lane area or does it include the Crosbie, Includes both and the option if possible to expand.

Minutes: June 11, 2012

Motion to approve the minutes of June 11, 2012 Ms. Scott-Pipes.

Second Mr. Jones. Motion passed by unanimous vote.

Amendment to the Order of Conditions: Solimando, 8 Dartmouth Street (restroom on boardwalk)

Motion to condition the amendment Ms. Scott-Pipes. Talked to different agencies, they all said it wasn't their problem. More of a problem if it was a holding tank. Mr. Jones: This allows him to build the restroom. Would rather see it on the shore. Second Mr. Parys. Mr. Breitenstein: there is an economic alternative. Need a plan for others that will follow. He stated the Board of Health agent said he had to put it there, but that wasn't true. Construction of the facility has no impacts on the resource area, but could be a problem of pollution in the future; illogical.

Mr. Jones: not a precedence because this is commercial. Each project is site by site; no two properties are the same. Applicant said he would accept whatever we said. He also said is wasn't the most economic

thing, but someone might use it and something has to be said for that. Mr. O'Connell: It is above base flood elevation. Motion carried by a vote of 4 to 2.

Order of Conditions: Martin, 50 Lawton Terrace (septic)
Motion to condition the project Ms. Scott-Pipes. Second Mr. Jones.
Motion passed by unanimous vote.

Amendment to the Order of Conditions: Scott, 274 Gannett Road (fill & deck)

Mr. Parys: do we want to issue the orders or issue after he cleans out the fill? Enforcement Order will give him a time line of 21 days to submit a vegetation plan and 30 days to complete the work. Motion to condition the amendment Ms. Scott-Pipes. Second Mr. Harding. Motion passed by unanimous vote.

Ms. Scott-Pipes – Gristmill: Went down with Mr. Jones. Project is a walkway and cut the trees. Plan looks like a lot of trees, but all should be removed. Mr. Breitenstein: should have to plant some trees. The whole bank will be exposed. Not asking them to spend a ton of money. 5' between post and rail fence and the bank. Get rid of the Norwell Maples and the others will thrive. Filed a Request for Determination, but no tree cutting was mentioned. Former tree warden George Story went to the site; they picked the trees for the other vegetation to survive better.

Mr. O'Connell: Certificate of Compliance for 188 Clapp Road – new owners just bought. Most of the buffer plantings are in. There are approximately 30 different varieties along the sides of the property. They substantially complied, but a shed appeared. Would cause more harm than good to remove it. Consensus of the Commission was OK to leave shed.

8 Buttonwood Lane: No site visit yet; can visit site tomorrow and if in compliance, can issue, if not will not issue. Requested the Commission to decide whether to sign and issue if complete. Commission signed the Certificate.

CORRESPONDENCE

August 14, 2012 – August 27, 2012

1. Request for CofC for 68-2413 – 166 Glades Road - Engineer's letter, as-built, \$100 (in file)
2. Planning Board re: Accessory Dwelling Special Permit Application 5 Third Avenue – COMMENTS by 9/7/12
3. Recording of OofC – 68-2424 - Farina, 19 Old Mouth Road (in file)
4. Request for Full CofC for 188 Clapp Road - \$100.00 (in file)
5. Recording of Extension Permit 68-1201 – McLaughlin, 167 Glades Road (need to get file from downstairs)
6. Recording of CofC 68-1246 – Harold, 21 Circuit Ave. (in file)
7. Planning Board re: Form A Application - 655 CJCH – Comments no later than 8/22/12
8. Coastal Services Magazine
9. Revised plans for 68-2429 - 100 Greenfield Lane (in file)
10. Recording of OofC for 68-2425 – Keiley, 25 River Street (in file)
11. Selectmen re: copy of the Open Meeting Law Guide. AG's website www.mass.gov/ago/government-resources/open-meeting-law
12. Revised plans for 68-2429 – 100 Greenfield Lane (in file)
13. Recording of OofC for 68-2427 – Lot 1 – 159 Hollett Street (in file)
14. Recording of OofC for 68-2428 – Lot 2 Hollett Street (in file)
15. Request for CofC Horton, 8 Buttonwood Lane 68-1727 (2nd time submitted apparently) (in file)
16. Design Review Committee – Wednesday, Sept. 5, 2012 (signs – Jacob Hatch Bldg., 10 New Driftway formerly 2 Country Way; James – Clapp Cemetery, The Driftway, west side of the Riverway development)
17. Deed re: transfer to George Stearns, 62 Cornet Stetson Road (in file)
18. Murphy, Hesse, Toomey & Lehane re: Purchase of "Hubbell Preserve: - off Indian Trail
19. Stormwater Magazine

Meeting adjourned 8:00 p.m.

Respectfully submitted,

Carol Logue, Secretary